

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

TIM A. COLLETTE,

Civ. No. 6:11-cv-6315-TC

Plaintiff,

ORDER

v.

KELLY D. SUTHERLAND of
SHAPIRO & SUTHERLAND, as
Successor Trustee, and JP
MORGAN CHASE BANK, N.A.,
purchaser of certain assets of
WASHINGTON MUTUAL BANK FKA
WASHINGTON MUTUAL BANK, F.A.,

Defendants.

AIKEN, Chief Judge:

Plaintiff filed suit seeking declaratory and injunctive relief and alleging wrongful foreclosure, breach of contract, and unlawful debt collection. Defendant JP Morgan Chase Bank (Chase), N.A. moved

to dismiss plaintiff's claim brought under the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692f(6).

On February 28, 2012, United States Magistrate Judge Coffin issued his Findings and Recommendation and recommended that Chase's motion to dismiss be denied without prejudice with leave renew after the close of discovery. The matter is now before me. See 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

When either party objects to any portion of a magistrate judge's Findings and Recommendation, the district court must make a de novo determination of that portion of the magistrate judge's report. See 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Chase filed timely objections to the Findings and Recommendation. I have, therefore, given de novo review of Magistrate Judge Coffin's rulings.

I agree with the sound reasoning of Magistrate Judge Coffin and find plaintiff's allegations sufficient to state a claim for relief under the FDCPA. Whether Chase is, in fact, a "debt collector" within the meaning of the FDCPA cannot be determined on the pleadings alone, and I agree with plaintiff that his allegations need not encompass any and all defenses to liability. Further, plaintiff represents that he will voluntarily dismiss this claim should Chase provide documentation that it became the loan servicer prior to default.

Accordingly, Magistrate Judge Coffin's Findings and Recommendation filed February 28, 2012 (doc. 15) is ADOPTED in its entirety. Defendants' Motion to Dismiss (doc. 7) is DENIED with leave to renew after the close of discovery.

IT IS SO ORDERED.

Dated this 19th day of April, 2012.

A handwritten signature in black ink, appearing to read "Ann Aiken", written over a horizontal line.

Ann Aiken
United States District Judge